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**SUBJECT** Appeal Brief (09/965,004)

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## MESSAGE

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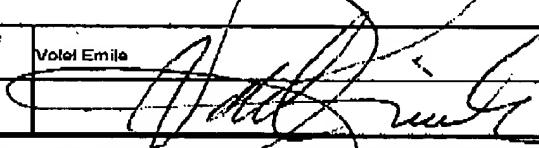
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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/965,004
		Filing Date	09/27/2001
		First Named Inventor	Kephane et al.
		Art Unit	2174
		Examiner Name	Boris M. Pein
Total Number of Pages in This Submission		Attorney Docket Number	
		AUS920010878U61	

<b>ENCLOSURES</b> <i>(Check all that apply)</i>		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <div style="border: 1px solid black; padding: 2px; display: inline-block;">Remarks</div> Appeal Brief.	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):

<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>	
Firm or Individual name	Volei Emile
Signature	
Date	02/23/2005

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		Date	02/23/2005

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Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: :  
Keohane et al. :  
Serial No: 09/965,004 : Before the Examiner:  
Filed: 09/27/2001 : Boris M. Pesin  
Title: APPARATUS AND METHOD : Group Art Unit: 2174  
FOR A WEB BROWSER TO SELECT A : Confirmation No.: 2732  
HOME PAGE UPON ACTIVATION :  
BASED ON A SCHEDULER OR :  
NETWORK CONNECTION :  
:

TRANSMITTAL OF APPELLANTS' BRIEF UNDER 37 C.F.R. 1.192(a)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached is Appellant's Brief, in triplicate, from a decision of the Examiner dated 11/18/2004, finally rejecting the claims in the Application.

The item(s) marked below are appropriate:

1.  A petition and fee for extension of term for reply to the final rejection is attached.
2.  Appeal fee  
 other than a small entity. Fee: \$500.00
3.  Payment  
 Please charge Deposit Account 09-0447 the sum of \$500.00. A duplicate of this notice is attached.

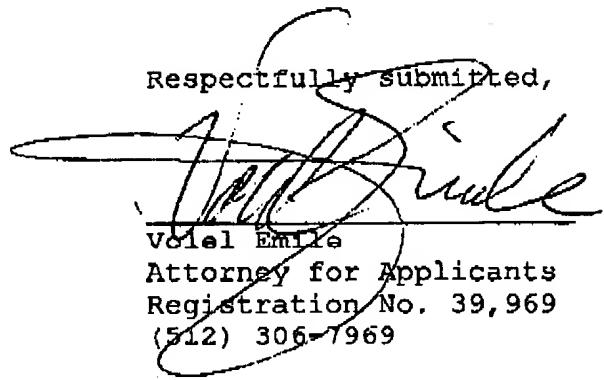
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Page 1 of 2

Appl. No. 09/965,004  
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The Commissioner is hereby authorized to charge any additional fee, which may be required or credit any overpayment to Deposit Account No. 09-0447.

Respectfully submitted,

  
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Attorney for Applicants  
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AUS920010878US1

Page 2 of 2

Appl. No. 09/965,004  
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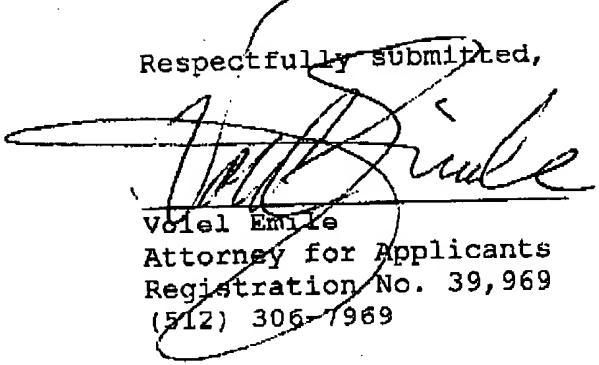
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Page 1 of 2

Appl. No. 09/965,004  
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AUS920010878US1

Page 2 of 2

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Serial No: 09/965,004  
Filed: 09/27/2001  
Title: APPARATUS AND METHOD  
FOR A WEB BROWSER TO SELECT A  
HOME PAGE UPON ACTIVATION  
BASED ON A SCHEDULER OR  
NETWORK CONNECTION

:

:

: Before the Examiner:  
: Boris M. Pesin

:

: Group Art Unit: 2174

:

: Confirmation No.: 2732

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APPELLANTS' BRIEF UNDER 37 C.F.R. 1.192

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an appeal to a final rejection dated November 18, 2004 of claims 1 - 20 of Application Serial Number 09/965,004 filed on September 27, 2001. This brief is submitted pursuant to a Notice of Appeal filed on February 15, 2005 in accordance with 37 C.F.R. 1.192.

AUS920010878US1

Page 1 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

BRIEF FOR APPLICANTS - APPELLANTS

(1)

Real Party in Interest

The real party in interest is International Business Machines Corporation (IBM), the assignee.

(2)

Related Appeals and Interferences

There are no other appeals or interferences known to appellants, appellants' representative or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3)

Status of Claims

Claims 1 - 20 have been finally rejected. This appeal involves all the rejected claims.

(4)

Status of Amendment

A Response to the first Office Action, in which the independent claims (Claims 1, 6, 11 and 16) were amended, was filed on July 7, 2004. The Amendment was entered; however, the Examiner did not find Applicants' arguments to be persuasive and issued a Final Office Action.

(5)

Summary of the Invention

AUS920010878US1

Page 2 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

As mentioned in the Application as well as in the Response to the prior Office Action, it is well known in the art that a home page is a Web page that a browser displays when the browser is instantiated. The browser will also display this page whenever the home page icon on the browser's toolbar is asserted (see page 1, lines 24 - 27).

When a first computer system is behind a company's firewall and the home page that is programmed on the first computer system's Web browser is hosted by a second computer system that is also behind the firewall, when the Web browser of the first computer system is instantiated, the Web browser will be able to access the home page. But, if the first computer system is not behind the firewall, the Web browser will not be able to access the home page and an error such as "page cannot be displayed" will be generated (see page 2, lines 6 - 14).

The "page cannot be displayed" error is not ordinarily generated right after the Web browser is instantiated. It usually occurs after a certain amount of time has elapsed (i.e., after the request sent by the Web browser for the home page has timed out). Most users usually wait to see whether a page will be displayed. This is time squandered that could be better used for doing something else (see page 2, lines 15 - 21).

The present invention ensures that when a primary or default home page is not accessible, an alternate home page is accessed and displayed (see page 3, lines 3 - 11, page 10, lines 20 - 22, page 12, lines 6 - 8, page 16, line 2 to page 17, line 13 and page 23, lines 10 - 18 as well Figs.

AUS920010878US1

Page 3 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

12 and 13). This eliminates the idle time users usually spend waiting for a "page cannot be displayed" error to be generated and displayed.

Particularly, when a browser is instantiating, a check is made to determine whether the default home page (i.e., the page that is programmed in the browser to be accessed upon instantiation) is presently accessible. (Note that in determining whether the default home page is presently accessible, the time of the day/day of the week (i.e., a scheduler) or the IP address of the computer system hosting the home page and that of the computer system accessing the home page may be compared to determine whether they are both on the same network.) In any case, if it is determined that the home page is presently accessible, the home page is accessed and its content displayed. If, on the other hand, it is determined that the default home page is not currently accessible, an alternate home page is accessed and its content displayed (see independent Claims 1, 6, 11 and 16 in the Appendix).

(6)

Issues

**Whether claims 1 - 20 were properly rejected under 102(e) as being anticipated by Russell-Falla et al.**

(7)

Grouping of Claims

The rejected claims stand or fall together.

AUS920010878US1

Page 4 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

(8)

Argument

In considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984). Russell-Falla et al., the reference used to reject the independent claims, does not disclose all the elements of the claims.

Russell-Falla et al. purports to teach a method of blocking the display of a Web page that contains a particular type of content (see column 2, lines 33 - 34, lines 44 - 49 and column 4, lines 52 - 54). According to the teachings of Russell-Falla et al., when a user logs onto a computer system, a value which will have been previously assigned to the user by an administrator is obtained. This value is used to determine whether a Web page is to be blocked from being displayed to the user.

Particularly, when a Web page is accessed, the content of the Web page, which is being downloaded to be displayed on the user's computer system, is intercepted by a proxy server. There, the content of the Web page is analyzed to determine whether pornographic materials, for example, are included therein. Based on the actual content of the Web page as determined by the analysis, the Web page is given a score. If the value assigned to the user is greater than or equal to the score, the content of the Web page is

AUS920010878US1

Page 5 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

allowed to be displayed to the user. If, on the other hand, the value assigned to the user is less than the score given to the Web page, the display of the Web page is blocked and an alternate page is displayed. The alternate page generally contains an explanation as to why the display of the Web page was blocked (see column 2, line 50 to column 3, line 16 and column 5, line 53 to column 6, line 16).

Thus, Russell-Falla et al. do not teach, show or suggest a method of determining whether a default home page is accessible as claimed. Rather, Russell-Falla et al. teach a method of determining whether to block the display of a Web page that has been accessed.

The Examiner, in the "Response to Arguments" Section of the Final Office action (see pages 5 and 6 of the November 18, 2004 Office Action), stated that "Applicant admits that Russell-Falla et al. teaches a method of determining whether to display the content of a web page that has been accessed. Therefore, if Russell-Falla determines not to display the web page, he is in fact limiting access to the page because accessibility at the server level is not the main issue; the main thing that determines accessibility is whether the user can view the page. If the user cannot see the page because it is blocked for all practical purposes, the Web page is not accessible, and hence a different page is shown."

Applicants would like to point out that determining whether to block the display of a Web page is quite different from determining whether a Web page is accessible. As mentioned in the Response as well as above,

AUS920010878US1

Page 6 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

in determining whether to block the display of a Web page, Russell-Falla et al. teaches to first access the Web page to download its content to an intermediate computer system. There, an analysis of the content is undertaken to determine whether the content should be blocked from being displayed to the user.

By contrast, the step of determining whether a page is accessible, as taught by the invention, is just that (i.e., determining whether a page is accessible).

Stated differently, a pre-requisite of the teachings of Russell-Falla et al. is page accessibility whereas a pre-requisite of the present invention is page inaccessibility (the exact opposite). For example, if the page is accessible, then according to the teachings of Russell-Falla et al., the page will be accessed and its content downloaded, intercepted and analyzed to determine whether it should be blocked from being displayed to the user. But if the page is inaccessible, then the user will most likely spend time uselessly waiting for a "page cannot be displayed" error to be generated and displayed. This is the very problem that the present invention solves (i.e., having users wait idly for a "page cannot be displayed" error to be generated and displayed).

In view of the foregoing, Applicants submit that Russell-Falla et al. does not disclose all the elements of the claimed invention. And, since neither the Web page of the University of Maryland nor Gifford (the other references used by the Examiner to reject the rest of the claims) teaches the claimed invention, Applicants submit that the claims are allowable. Consequently,

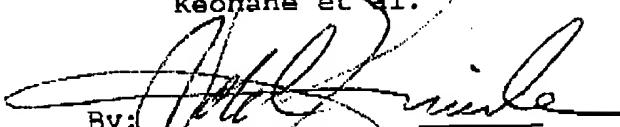
AUS920010878US1

Page 7 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

reconsideration, allowance and passage to issue are  
respectfully requested.

Respectfully submitted,  
Keohane et al.

By:   
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AUS920010878US1

Page 8 of 14

Appl No. 09/965,004  
Appeal Brief dated 02/23/2005  
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Appendix

1. (Previously presented) A method for a Web browser to display a home page upon activation comprising the steps of:

determining whether a default home page is presently accessible;

accessing the default home page if the default home page is determined to be presently accessible or an alternate home page if the default home page is not determined to be presently accessible to download data representing the default home page or the alternate homepage, respectively; and

displaying the respective downloaded data.

2. (Original) The method of Claim 1 wherein said determining step includes the step of using a scheduler.

3. (Original) The method of Claim 2 wherein said scheduler includes time and day that said default home page is accessible.

4. (Original) The method of Claim 1 wherein said determining step includes comparing IP address of a computer system displaying the home page with IP address of a computer system hosting the default home

AUS920010878US1

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

page to determine whether the two computer systems are within the same network.

5. (Original) The method of Claim 4 wherein if the two computer systems are within the same network, the default home page is determined to be presently accessible and if they are not within the same network, the default home page is determined to be presently inaccessible.

6. (Previously presented) A computer program product stored on a computer readable medium for displaying a home page upon a browser activation comprising:

code means for determining whether a default home page is presently accessible;

code means for accessing the default home page if the default home page is determined to be presently accessible or an alternate home page if the default home page is not determined to be presently accessible to download data representing the default home page or the alternate homepage, respectively; and

code means for displaying the respective downloaded data.

7. (Original) The computer program product of Claim 6 wherein said determining code means includes code means for using a scheduler.

AUS920010878US1

Page 10 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

8. (Original) The computer program product of Claim 7 wherein said scheduler includes time and day that the default home page is accessible.
9. (Original) The computer program product of Claim 8 wherein said determining code means includes code means for comparing IP address of a computer system displaying the default home page with IP address of a computer system hosting said home page to determine whether the two computer systems are within the same network.
10. (Original) The computer program product of Claim 9 wherein if the two computer systems are within the same network, the default home page is determined to be presently accessible and if they are not within the same network, the default home page is determined to be presently inaccessible.
11. (Previously presented) An apparatus for displaying a home page upon a browser activation comprising:  
means for determining whether a default home page is presently accessible;  
means for accessing the default home page if the default home page is determined to be presently accessible or an alternate home page if the default home page is not determined to be presently accessible

AUS920010878US1

Page 11 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
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to download data representing the default home page or  
the alternate homepage, respectively; and

means for displaying the respective downloaded data.

12. (Original) The apparatus of Claim 11 wherein said determining means includes means for using a scheduler.
13. (Original) The apparatus of Claim 12 wherein said scheduler includes time and day that said default home page is accessible.
14. (Original) The apparatus of Claim 11 wherein said determining means includes means for comparing IP address of a computer system displaying the default home page with IP address of a computer system hosting said home page to determine whether the two computer systems are within the same network.
15. (Original) The apparatus of Claim 14 wherein if the two computer systems are within the same network, the default home page is determined to be presently accessible and if they are not within the same network, the default home page is determined to be presently inaccessible.
16. (Previously presented) A computer system for displaying a home page upon a browser activation comprising:

AUS920010878US1

Page 12 of 14

Appl No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

a storage device for storing code data; and

a processor for processing the code data in the storage device for determining whether a default home page is presently accessible and if the default home page is presently accessible, for accessing the default home page to download and display data representing the default home page and if the default home page is not presently accessible, for accessing an alternate home page to download and display data representing the alternate home page.

17. (Original) The computer system of Claim 17 wherein determining whether a default home page is accessible includes using a scheduler.
18. (Original) The computer system of Claim 17 wherein said scheduler includes time and day that said default home page is accessible.
19. (Original) The computer system of Claim 16 wherein determining whether the default home page is accessible includes comparing IP address of a computer system displaying the default home page with IP address of a computer system hosting said home page to determine whether the two computer systems are within the same network.
20. (Original) The computer system of Claim 19 wherein if the two computer systems are within the same network,

AUS920010878US1

Page 13 of 14

Appl. No. 09/965,004  
Appeal Brief dated 02/23/2005  
Reply to Office Action of 11/18/2004

the default home page is determined to be presently accessible and if they are not within the same network, the default home page is determined to be presently inaccessible.

AUS920010878US1

Page 14 of 14